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July 26, 2010

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By UPS

Hon. Martin Glenn
United States Bankruptcy Judge
Southern District of New York
Alexander Hamilton Custom House
One Bowling Green
New York, NY 10004-1408

Re: *In re: New York City Off-Track Betting Corporation, Debtor.* (Chapter 9; Case
No. 09-17121-MG)

Dear Judge Glenn:

We represent Empire Resorts, Inc. ("Empire") in the referenced case before Your Honor, and write this letter on Empire's behalf and with the concurrence of counsel for Finger Lakes Racing Association, Inc. ("Finger Lakes") in this case.

On Wednesday, July 21, 2010, counsel for the debtor, New York City Off Track Betting Corporation ("NYC OTB"), filed a document entitled "Supplemental Statement of New York City Off-Track Betting Corporation Regarding Motion to Comply With Requirements of New York Racing Law; Motion to Abstain" ("Supplemental Statement") (Docket No. 128) in response to the question that Your Honor asked, at the July 13 hearing, that counsel for Empire, Finger Lakes, and NYC OTB address. Counsel for NYC OTB included in its July 21 Supplemental Statement a motion for mandatory or permissive abstention under 28 U.S.C. §1334(c)(2) and (c)(1).

On July 21, 2010, we and counsel for Finger Lakes filed (1) a joint memorandum responding to Your Honor's question, entitled "Joint Memorandum of Empire Resorts, Inc. and Finger Lakes Racing Association, Inc. in Response to Court's Question Concerning the Forum for Determining When Debtor Must Pay Them Post-Petition Commissions" ("Joint Memorandum") (Docket No. 129), and (2) the declaration of Marvin Newberg dated July 21, 2010 (Docket No. 130) also in response to Your Honor's question. The Joint Memorandum addresses, *inter alia*, the issues of mandatory and permissive abstention.

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To the extent Your Honor considers the motion in the July 21 Supplemental Statement of counsel for NYC OTB (Docket No. 128), we and counsel for Finger Lakes ask that Your Honor consider the Joint Memorandum (Docket No. 129) and the July 21, 2010 declaration of Mr. Newberg (Docket No. 130) as Empire and Finger Lake's opposition to such motion in addition to constituting Empire and Finger Lakes' response to Your Honor's July 21 question to counsel.

Respectfully yours,

A handwritten signature in dark ink, appearing to read "Herbert C. Ross". The signature is fluid and cursive, with the first name "Herbert" and last name "Ross" being clearly legible.

Herbert C. Ross

cc: Richard Levin, Esq., Cravath, Swaine & Moore LLP, attorneys for New York City Off Track Betting Corporation (by facsimile)

Marvin Newberg, Esq., Law Offices of Marvin Newberg, co-counsel for Empire Resorts, Inc. (by facsimile)

Deborah J. Piazza, Esq., Hodgson Russ LLP, attorneys for Finger Lakes Racing Association, Inc. (by facsimile)